IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7158 OF 2004

Solapur Nagari Audyogik Sahakari

Bank Niyamit & Anr. .. Petitioners

Versus

The Chief Secretary,

Government of Maharashtra

and Ors. .. Respondents

Mr.Y.S.Jahagirdar, Senior Advocate and Vaibhav Joglekar with Ms.Anjali Helekar for petitioner
Mr.R.K.Sharma with A.R.Verma for Union of India
Mr.Birendra Saraf with Yogesh Chawak i/b. Udwadia Udeshi for respondent Nos. 4 and 5
Mr.V.P.Malvankar, A.G.P. for State.

CORAM : A.P.SHAH AND

S.C.DHARMADHIKARI, JJ.

DATE : 22nd DECEMBER 2004.

P.C.

. Heard Advocates.

2. By this petition, petitioners are seeking directions to respondent No.4, Reserve Bank of India to allow petitioner No.1 bank to adjust the accrued amount of interest on the deposit of Rs.15.20 Crores kept by petitioner No.1 with respondent No.6 bank, which has remained unpaid and/or interest which remained unpaid in future by respondent No.6 towards liability of petitioner No.1 to make further deposits towards the maintenance of Statutory Liquidity Ratio or alternatively, to direct the respondent No.4 to allow the interest of Rs.3.6659 Crores kept by petitioner No.1 with respondent No.6 bank and further allow petitioner No.1 not to treat its investment with respondent No.6 and interest thereon as Non Performing Asset.(NPA)

3. Petitioner No.1 is an urban cooperative bank. Under the provisions of Sections 18 and 24 of the Banking Regulation Act, 1949, a Cooperative Bank is required to maintain certain percentage of cash reserve and approved securities and a necessary statutory liquidity ratio has to be maintained. An urban cooperative

bank is required to keep its deposits in the institutions mentioned in the said sections including Central Cooperative Bank of the District. Respondent No.6 bank was declared as a district central cooperativer bank and as per the directions of the Commissioner for Cooperation, petitioner bank has invested the required deposit to comply with the provisions of section 24 with the respondent No.6 bank. It appears that respondent No.6 bank failed to pay interest after June 2002 due to financial difficulties. The respondent bank is now under liquidation. It is the case of the Petitioners that non payment of these deposits and interest thereon has adversely affected petitioner No.1 bank’s profitability and is causing serious financial hardships to the bank and as a result net worth of the bank is substantially eroded. The statutory auditors have placed petitioner No.1 bank in Audit Class "B" and as a result the bank is facing adverse public reaction and overall business of the bank has been adversely affected. Consequently, the growth of deposits has halted and no new deposits are forthcoming. Therefore, petitioner No.1 bank requested respondent No.4 not to treat the

deposit amount with respondent No.6 as N.P.A. The respondent No.4 however, declined to accept the request of the petitioner No.1 bank and hence present petition is filed seeking various reliefs indicated above.

4. We have heard Mr.Jahagirdar, learned Senior Counsel for petitioners, Mr.Malvankar, A.G.P. for respondent Nos. 1 to 3, Mr.Saraf, learned Counsel for respondent No.4 and Mr.Sharma, learned Counsel for respondent No.7.

5. It appears that till the year 1965, cooperative banks were not regulated by Reserve Bank of India. Consequently, certain benefits like extension of deposit cover issued by the Deposits Insurance and Credit Guarantee Corporation, their specification, as a scheduled bank etc. were not available to cooperative banks. In the year 1965, the Parliament felt it necessary to bring within the purview of the Banking Regulation Act, 1949 a large number of cooperative societies carrying on banking business to prevent the emergence of weak urban banks and also to ensure the growth of

cooperative banking on sound lines. Hence Banking Regulation Act, 1949 was amended on 1/3/1966 by Central Act No.23 of 1965 by inserting Part V providing for the application of the Banking Regulation Act, 1949 to cooperative banks. Under Section 24 read with section 26, it is mandatory for a cooperative bank to maintain certain percentage of cash reserve and approved securities and a necessary statutory liquidity ratio.

6. In line with the international practices and as per the recommendations made by the Committee on the Financial System (Narasimham Committee), the Reserve Bank of India has introduced, in a phased manner, prudential norms for income recognition, asset classification and provisioning for the advances portfolio of the banks so as to move towards greater consistency and transparency in the published accounts. Under the prudential norms Non Performing Asset has been defined as credit facility in respect of which the interest and/or instalment of principal has remained past due for a specified peiod of time as explained in the norms. According to the

the Reserve Bank investment of petitioner No.1 with respondent No.6 bank has stopped yielding any return to the petitioner No.1 and as per the norms the said amount ought to be treated as N.P.A. and petitioner No.1 cannot be allowed to book income on accrual basis. It is pointed out that respondent No.6 is under liquidation and, therefore, deposits with respondent No.6 cannot be treated for the purpose of SLR. As the amount deposited has stopped yielding any income to petitioner No.1 bank, Reserve Bank had no option but to turn down the request made by petitioner No.1 bank to use accrued interest on the deposits made by it with respondent No.6 bank. There is no challenge to the power of the Reserve Bank to frame the norms nor to the norms framed by the Reserve bank. We do not find any illegality or informity in the decision of Reserve bank Hence, petition is dismissed.

7. Learned Counsel for petitioners seek continuation of ad-interim relief. Application is rejected.

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